

BluewaterWind

FAX

To: Bruce Burcat, Esq., Executive Director

From: Peter D Mandelstam, President, Bluewater Wind LLC

Date: 12/17/06

Pages: 9 (includes cover sheet)

Subject: 12/15/06 Delmarva letter to Bluewater Wind

Mr. Burcat -

We have been unable to send electronically the enclosed documents; hence this email.

Thank you for your consideration.

Peter

Offices in Delaware, New Jersey, New York, and Rhode Island

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EMAIL TRANSMISSION ONLY

December 17, 2006

Bruce Burcat, Esquire
Executive Director
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, Delaware 19904

RE: Delmarva Power and Light Company
November 1, 2006 Request for Proposals for the
Construction of New Generation Resource(s):

Dear Mr. Burcat:

This letter follows up on a brief conversation Rob Propes, Project Director for Bluewater Wind Delaware, LLC (Bluewater) had with you at my request when he raised a procedural question with you. Specifically, Mr. Propes asked you how Bluewater could ask a question related to Delmarva's December 15, 2006 letter to me regarding Delmarva's response to Bluewater's "Non-Responsiveness Test" filing of December 8, 2006; that letter with non-germane sections redacted, is included as an attachment in the email transmittal of this letter to you. On the call with Mr. Propes, you instructed him to contact, by email, a range of people associated with the above-referenced RFP so that an emergency telephone conference for the morning of Monday, December 18, 2006 can be arranged.

Bluewater, taking an overly cautious approach to avoid improper contact with Delmarva during the pendency of the RFP process, respectfully defers to the PSC to provide notification to the appropriate parties of your decision for the teleconference with Bluewater to address our question. To facilitate the discussion with the PSC and the other parties that the PSC deems appropriate to participate on Monday morning's teleconference, I would now like to raise the issue that is of concern to Bluewater and our very strong belief regarding the proper resolution thereof. Obviously, we need to resolve this issue as the Delmarva bid documents are due by 5:00 PM on December 22, 2006. The PSC should feel free, at its discretion, to share this letter with the appropriate parties.

offices in
Delaware New Jersey New York Rhode Island

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Bruce Burcat, Esquire

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Bluewater seeks confirmation from both Delmarva and the Delaware State Agencies that the RFP and the questions and answers provided by Delmarva do not limit the size of the entire Bluewater project to an overall facility that will generate only 400 MW of capacity or less. The Letter states in pertinent part:

We did not see in the materials that Bluewater Wind filed on December 8, 2006 any indication of how it intends to limit the sale of energy or UCAP to Delmarva to that associated with 400 MW of nameplate capacity from either of the projects for which documents were submitted. (The letter at page 2.)

Since this paragraph falls under the heading of "Project size," Bluewater seeks specific assurances that the 400 MW limitation is only related to the energy and UCAP that Delmarva will purchase and does not restrict the size of the overall project that Bluewater seeks to build. As is public record, we are in the PJM interconnection queue, R36, R37, and R38, with 547 MW, 601 MW, and 601 MW, respectively. Our understanding of this issue has always been that the overall project may have net megawatt hours of output and net capacity in excess of the values associated with a stand-alone 400 MW wind project.

By way of background and in support of this conclusion, Bluewater refers you to the RFP and to PSC proceedings that reveal that the 400 MW limitation was only intended to apply to the energy and capacity purchased by Delmarva, not the size of the project. For example, the RFP itself states:

Under a PPA, Delmarva *shall purchase* up to 400 MW of capacity, energy and ancillary services . . . Proposals for New Generation capable of delivering capacity and energy *in excess of that Capacity sold under the PPA are acceptable* where the bidder recognizes that less than 100% of the capacity and associated energy from the New Generation would be purchased by Delmarva. (RFP at ¶ 2, page 2, emphasis added).

The PSC's Findings, Opinion and Order No. 7066 dated October 31, 2006 ("PSC Order") clearly contemplates the possibility that a project will have the ability to provide more than 400 MW. Specifically, when deciding on the 400 MW Delmarva purchasing limit, the PSC commented on the likelihood of securing financing for such a project, stating: "[t]he IC observed that projects with subscription percentages in the 56%-80% range had been financed and built". (PSC Order at 24.). Thus, the PSC understood and recognized that the 400 MW contract with Delmarva would be produced by only a percentage of the project's energy and capacity and that such projects would likely have significantly more energy and capacity beyond the required 400 MW of electricity in any given hour and beyond the 400 MW of capacity.

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Moreover, the Independent Consultant's Report relied upon by the PSC went into further detail when it provided:

However, we believe we have sufficient information to conclude that 600 MW or more is too large a contract from a customer exposure perspective. *We also do not believe that a developer of a 500 MW or 600 MW project will require a 500 MW or 600 MW contract from Delmarva to obtain financing.* In the industry, project developers and their investors have been willing to assume a certain amount of "subscription risk" and/or "merchant risk." Subscription risk is the risk that a certain portion of a plant's capacity and energy is not locked up under a long-term PPA. (Final Report Regarding Delmarva Power & Light Company's Proposed RFP, at page 10, emphasis added).

Thus, it is clear that both the Independent Consultant and the PSC contemplated that bidders like Bluewater would and could build overall projects in excess of the 400 MW Delmarva contract limit.

To the extent the Letter's intent was only to point out that Bluewater must be able to, from an engineering and/or technical perspective, limit its sale to Delmarva to 400 MW, this is easily accomplished and well established in the electric industry. Specifically, the Bluewater project could have multiple interconnects and meters to be able to deliver energy and capacity to multiple customers. The Bluewater proposal is to dedicate to the Delmarva contract, facilities sufficient to provide up to 400 MW of energy in any one hour and UCAP-defined capacity, and not to deliver more than that amount to Delmarva. Bluewater intends to deliver energy and capacity to the PJM market or to third parties under bilateral contracts for energy and capacity when and if the overall Bluewater project has the ability to do so, but only after Bluewater has fully satisfied its contractual obligations to Delmarva. This is not at all unusual; as noted in the Consultant's report above, in the generation industry, developers build larger generation facilities with the intent of providing energy and capacity to multiple customers via contract, with additional sales via the spot market. We think this approach will result in Delmarva being able by contract to purchase 400MW of high quality renewable energy and capacity (and not a megawatt hour more) at very competitive prices, and in Bluewater being able to build a robust business around multiple customers, products, and markets.

With respect to Delmarva's question regarding the basis for calculating UCAP, we believe that the only type of capacity that Delmarva can utilize to supply native load within its service territory is UCAP that is officially rated and certified by the PJM Interconnection. Installed Capacity is not counted within the PJM for load coverage. These rules are set forth in the FERC approved PJM Open Access Transmission Tariff, the PJM Reliability Assurance Agreement, the PJM Operating Agreement and the PJM Manuals. Based on those rules, we believe that the supply of capacity for Delmarva's load obligation must pertain to PJM certified UCAP generation resources. The Delmarva

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Bruce Burcat, Esquire

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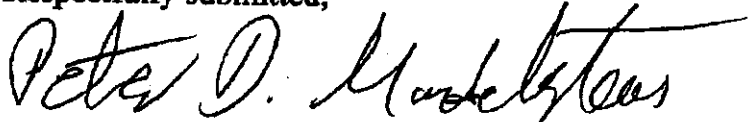
RFP clearly states that it is the intent of Delmarva Power to procure 400 MW of generation resources and the associated energy output from those resources. We believe that this means, within the context of all applicable laws and regulations, that 400 MW of generation resources is 400 MW of PJM certified UCAP resources. How the generation developer achieves the 400 MW UCAP certification is a matter to be settled between the owner of the generation resources and the PJM Interconnection. We do not believe that Delaware law or the RFP was intended to (nor could they) give Delmarva the right to determine the amount of overall installed generation a developer dedicates to satisfy the PJM requirements for PJM certification as UCAP generation. As to the calculation of UCAP, we believe that we have performed the calculation accurately but would be pleased to discuss any specific issues that you may have.

* * * *

We will await instructions from the PSC for the establishment of the administrative details related to this critical call. Please note that Bluewater is available at any time for this call and is also prepared to make the arrangements for this conference call.

Thank you for your consideration of this important matter.

Respectfully submitted,



Peter D. Mandelstam, President
Bluewater Wind, LLC and
Bluewater Wind Delaware, LLC



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December 15, 2006

Peter Mandelstam
President
Bluewater Wind LLC
22 Hudson Place, 3rd Floor
Hoboken, NJ 07030

Dear Mr. Mandelstam:

Thank you for Bluewater Wind's submission to Delmarva Power on December 8, 2006 in accordance with our RFP's provisions with regard to non-responsiveness. As required by December 15, this letter provides you with our assessment of the areas in which the materials that you submitted for the Bay Project and the North Project appear to be non-responsive. The Independent Consultant for the Delaware State Agencies and the Staff of the Delaware Public Service Commission agree with these comments.

There are a number of items in the Bidder Response Forms for which Bluewater Wind indicates the requested information will be submitted with your proposal(s) on or before December 22, 2006. For those items, we cannot judge, at this time, whether Bluewater Wind's filing would be considered responsive or non-responsive. Also, changes to the answers submitted on December 8 could make those answers non-responsive.

With regard to the materials that Bluewater Wind has provided, here are our comments:

Project Size. We believe that Bluewater Wind may have misinterpreted the RFP; the questions and answers that Delmarva has provided; and the PJM's calculation of UCAP. We have three comments in this regard:

First, Bluewater Wind indicates that it intends to propose three different projects (Bay, North and South), each of which is over the RFP's 400 MW installed capacity limit. As you clearly know, it is acceptable for a Bidder to submit more than one bid for evaluation. However, we would like to state that Delmarva is not planning to recommend for selection more than one project if the total installed capacity to be purchased would exceed 400 MW.

Second, it is clearly stated in our response to Question #64 of the questions and answers that Bidders may only sell the energy and UCAP from 400 MW of installed capacity. As stated there:

PJM

Delmarva states "The amount of energy to be purchased by Delmarva will not exceed the amount that the New Generation facility could generate at its full nameplate rating or its contracted capacity, whichever is less."

For clarification, does the limitation of "400 MW of capacity, energy, and ancillary services" as stated in Section 1.1 Introduction, Subsection 2, controlling in the event that a facility's full nameplate rating exceeds 400 MW?

400 MW is the maximum allowed limit for any product under the RFP. For a project with installed net capability in excess of 400 MW, the energy and capacity limit would be based on the installed net capability of a project to which Delmarva would have an entitlement, i.e., the Seller may (a) provide up to 400 MW of energy from a percentage of the entire project as long as the percentage multiplied by the installed net capability of the project does not exceed 400 MW or (b) provide up to 400 MW of energy from a portion of the project that is separately metered or accounted for, where the portion of the project does not exceed 400 MW of installed net capability. Intermittent renewable energy projects may sell UCAP to Delmarva from up to 400 MW of a project's installed net nameplate capability.

We did not see in the materials that Bluewater Wind filed on December 8, 2006 any indication of how it intends to limit the sale of energy or UCAP to Delmarva to that associated with 400 MW of nameplate capacity from either of the projects for which documents were submitted.

Third, we question the UCAP calculation that Bluewater Wind provided. PJM Manual 21 provides for such calculation, and this manual specifies that the UCAP calculation shall be based on the summer peak hour output of the plant. The calculation of UCAP that Bluewater Wind has provided in its December 8 submittal (33.1% for the North project and 27.5% for the Bay project) uses the full nameplate capacity, not 400 MW, and it does not appear to conform to PJM Manual 21's approach.

THESE SECTIONS REDACTED

[REDACTED]

[REDACTED]

[REDACTED]

THESE SECTIONS REDACTED

[REDACTED]

[REDACTED]

Delmarva looks forward to receiving Bluewater Wind's proposals on or before December 22, 2006.

Sincerely,

Mark Finfrock
Delmarva Power